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Trends. The Federal Bureau of Investigation Reform Act of 2003 (S.1440): A Polygraph Update

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Abstract: This Trends article discusses The Federal Bureau of Investigation Reform Act of 2003 (S.1440), and the continuing popularity of the polygraph with security bureaucracies.

From the United States (US) Congressional Record (CR) of July 22, 2003 (US Senate) and the text of The Federal Bureau of Investigation (FBI) Reform Act of 2003 (S.1440) comes word that the polygraph is alive and well as a vehicle to support US security through advocacy for a revamped personnel security and counterintelligence program at the FBI.. The question is whether this support is really security-philic or security-phobic.

[The polygraph] actually subsumes a host of procedures predicated on the assumption that there are reliable and valid physiological indicators of deception on the part of an individual answering specific questions. However, this reductionistic approach to the social psychological variable of deception has been unsupported by several comprehensive scientific analyses over the last 20 years.

Perhaps, in response to scientific non-support, the CR comments of a US Senator and the text of S.1440 contain qualifications for polygraph usage. These qualifications include procedures to “address false positives,” to “ensure quality control,” and to prevent “adverse personnel action” based “solely” on “physiological reaction on an exam without further investigation.”

Unfortunately, the first two qualifications are but rhetorical flourishes. For example, the whole point of scientific non-support for the polygraph is that it is almost always unknown when “false positives” occur. And, thus, to “ensure quality control” is doomed from the start, unless it is constrained as a quest to increase consistency of procedure—that can result in doing what is not right with less variability! Finally, the required “further investigation” after a presumed psychophysiological indicator of deception still becomes the quest to prove a negative that is epistemologically prohibitive—viz., that the individual is not lying.

It is very likely that the long-term popularity of the polygraph within security bureaucracies reflects an unwitting embrace of the ideology of logical positivism and of cognitive heuristics such as illusory correlation. In the vernacular, advocates of the polygraph still don’t get it. (See Brief for Amicus Curiae: Committee of Concerned Social Scientists in Support of the Respondent. On Writ of Certiorari to the United States Court of Appeals for the Armed Forces. *United States of America v. Edward G. Scheffer*. In the Court of the United States. (October term 1997). No. 96-1133; Federal Bureau of Investigation Reform Act of 2003. <http://thomas.loc.gov>; Iacono, W.G., & Lykken, D.T. (1997). The validity of the lie detector: Two surveys of scientific opinion. *Journal of Applied Psychology*, 82, 426-433; Saxe, L., & Ben-Shakhar, G. (1999). Admissibility of polygraph tests: The application of scientific standards post-Daubert. *Psychology, Public Policy, & Law*, 5, 203-223; Scientific Validity of Polygraph Testing: A Research Review and Evaluation. (November 1983). A Technical Memorandum. Washington, D. C.: U.S. Congress Office of Technology Assessment (OTA-TM-H-15); Statements on introduced bills and joint resolutions. (July 22, 2003). *Congressional Record (Senate)*, pp. S9710-S9736; Study to review the scientific evidence on the

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